

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY

Docket No. DE 17-160

Petition for Recovery of Annual Assessment and Consultant Costs

OBJECTION OF STAFF TO EVERSOURCE'S MOTION FOR RECONSIDERATION

NOW COMES Commission Staff (Staff), a party in this docket, and objects to the Motion for Reconsideration submitted by Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) seeking reconsideration of Order No. 26,108 issued March 2, 2018 (Order) in the instant proceeding relative to the disallowance of certain consultant costs incurred by the Staff and the Office of Consumer Advocate (OCA) and charged to Eversource. In support of this objection, Staff states as follows:

1. In Order No. 26,091 (December 27, 2017), the Commission directed the Commission's Audit Division to review the accounting treatment of the subject consultant costs. Staff filed the resulting Audit Report on January 30, 2018. In connection with its audit, the Audit Division verified that Eversource had expensed certain consultant costs to account 928, "Regulatory Commission Expenses," during 2016 and 2017.

2. The Audit Report explained that the 2016 consulting expenses cannot be included within the deferral, because they were included in the 2016 income statements as expense and the books had been closed for a year. Consequently, Audit Staff concluded that \$200,904 of consulting costs should be excluded from any recovery.

3. Audit Staff noted that Eversource must comply with Federal Energy Regulatory Commission (FERC) rules regarding the amount qualified to be posted in FERC account 182

“Other Regulatory Assets.” The Audit Report provided the relevant text of the FERC Uniform Systems of Accounts on page 8 of the Audit Report.

4. Based on the Audit Report, Staff recommended that Eversource be denied recovery of \$200,904 that had been expensed by Eversource, consistent with the finding of the Audit Report. A copy of the Audit Report was attached to the recommendation.

5. On February 6, 2018, Eversource filed a response to Staff’s recommendation. In brief, it made the following argument:

- Audit Staff was limited by the Order to reviewing only whether the amounts of the bills were correct, and exceeded its mandate by making a finding on Eversource’s *accounting treatment* of the 2016 and 2017 consultant costs. (Emphasis added)
- Order No. 26,091 authorized “full recovery” of the Staff and consultant costs
- The Commission may only adopt Staff’s recommendation to disallow a portion of the consultant costs after notice and hearing.
- The booking of the costs has nothing to do with the nature of the expenses.
- The timing of the costs and uncertain recovery made it appropriate to book the costs as they were booked.
- RSA 363:28, III permits recovery of the costs.
- Unifil Energy Systems, Inc. (Unifil) received full recovery of the costs.

6. Order No. 26,108 (March 2, 2018), the Commission rejected Eversource’s argument that Staff’s audit was limited to the tallying of numbers, but expressly included the review of the accounting treatment of the consultant fees and stated that “[it] is incontrovertible that the Audit Division’s consideration of whether Eversource complied with FERC rules and the Uniform

System of Accounts constitutes review of Eversource's 'accounting treatment' of the consultant costs incurred and expensed in 2016." Order No. 26,108 at 4.

7. The Commission also rejected Eversource's procedural argument that an order of notice should have preceded the Commission's ruling in Order No. 26,108.

8. Finally, the Commission said that based on Eversource's statement that it would appropriately defer such expenses in the future, Eversource seemed to be asking for an exception from FERC accounting rules in this particular instance. *Id.* The Commission ordered Eversource to make the appropriate adjustment to its rates.

9. In its Motion for Reconsideration, Eversource recites the standard for reconsideration and argues that the Commission "overlooked or mistakenly conceived important factual, legal, and policy matters in the Order" that merit reconsideration. Motion for Reconsideration at 1.

10. A summary of the argument follows:

- Eversource's agreement to defer such costs in the future does not constitute agreement that Eversource acted inappropriately in this instance.
- Order No. 26,091 granted Eversource full recovery and did not specify that it was subject to audit and possible refund. Consequently, the Order was not clear and Eversource should be entitled to "due process" for any modification of the Order.
- The Commission did not consider RSA 363:28, III and the statute's mandate for timely recovery of consultant costs.
- Unitil was allowed to recover consultant costs in Docket No. DE 16-384.
- The denial of recovery amounts to a taking under the N.H. Constitution.

11. At the outset, what the Commission approves or does not approve for other utilities does not have any bearing on whether or not Eversource should recover expensed amounts in the

instant case. The only facts that are relevant are those related to Eversource's accounting treatment of the consultant costs. The Commission's disregard of Eversource's argument about decisions made in connection with Unitil's rate proceeding is not factually connected in any way to the instant docket, and is not a "mistaken understanding" of the facts.

12. Pursuant to RSA 374:18, the Commission may direct the examination of a utility's books and records, and Order No. 26,091 directed Staff to audit the consultant costs. Eversource's argument that it would not have to comply with the resulting audit without specific language in the ordering clause would mean that such audits are meaningless exercises by Staff and are not conducted for the benefit of assuring that ratepayers pay just and reasonable rates. The Commission did not exceed its authority by requiring Eversource to comply with audit results.

13. In addition, at hearing, Staff had the following exchange with Eversource's witness:

(Staff) Okay. Thank you. With respect to the consultant costs, is the Company agreeable to having those costs audited by the Staff?

(Christopher Goulding for Eversource) A. Yes, we are.

(Staff) Q. And in the event that there were any changes that would require a reconciliation to findings from the audit, the Company would be willing to make that adjustment? (emphasis added)

(Mr. Goulding) A. Yes. (emphasis added)

(Staff) Q. Thank you. (Source: Hearing Transcript at 15).

The Commission rightly concluded, based on this exchange where the witness was under oath, that Eversource clearly understood that there could be some results from the audit with which it would need to comply. Furthermore, Eversource expressly agreed that it would comply with the audit results. For Eversource to now claim in a motion for reconsideration that the Order should have specific language to that effect, or an additional hearing, to direct Eversource to conform to

audit findings, is confounding at best. There is no mistake that the Commission clearly expected that Eversource would comply with the audit findings as Eversource represented at hearing.

14. The argument that the Commission ignored the requirements of RSA 363:28, III is similarly confusing as the Commission allowed recovery of consultant costs according to the time frames requested by Eversource in its petition. Eversource determined the timing of the filing of the petition, and requested recovery to begin with rates effective January 1, 2018. That request was granted by the Commission, subject to the outcome of the audit. Based on the foregoing, one can only assume that Eversource considered the recovery of these costs beginning with rates effective January 1, 2018 as “timely recovery” because Eversource could have filed this petition at some earlier point in time. This claim does not support Eversource’s argument that the Commission mistakenly conceived the law. It does call into question why Eversource considers the Commission’s approval of its petition according to the time frames requested by Eversource as resulting in untimely recovery, but that is an inquiry that need not be made to conclude that the argument has no merit.

15. Eversource appears to misinterpret the FERC description of account 182, emphasized in its motion for reconsideration, regarding the statement “but for it being probable that such items will be included in different period(s) for purposes of developing rates that the utility is authorized to charge for its utility services.” Staff understands the statement to indicate that if an expense item in the current period is anticipated to be recovered in a future period, then that expense item can be booked instead to the deferred account 182. Items expensed during the closing of the financial records in prior years cannot be recreated for inclusion in the deferred account. Again, Staff argues that the Commission did not overlook or mistakenly conceive any factual, legal or policy matter that would lead to a different result than the disallowance ordered

in Order No. 26,108. The Commission noted that Eversource seemed to agree that the accounting treatment recommended by Audit Staff is the correct procedure going forward, and it was reasonable to do so because the Commission agreed with Audit Staff's application of the FERC accounting rules to the consultant costs. Staff maintains that the Commission's conclusion is not mistaken.

16. All of the foregoing Staff arguments demonstrate that the disallowance recommended by Staff and approved by the Commission is not an unconstitutional taking. Eversource had its hearing before the Commission, and made its argument concerning the merits of its claim. To argue that it was denied due process, appropriate notice, and an opportunity to make its argument in support of its position that a taking was made "under pretense" is not an argument supported by the record. The Commission has the statutory authority to order the audit and the duty to assure that ratepayers are assessed just and reasonable rates. The disallowance in this instance relative to consultant costs is confined to the amounts that were recorded in a manner contrary to FERC accounting rules. The Commission did not mistakenly interpret its authority and responsibility under New Hampshire law.

Based on the foregoing, Staff respectfully requests that the Commission deny Eversource's motion for reconsideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Suzanne G. Amidon', is written over a horizontal line.

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